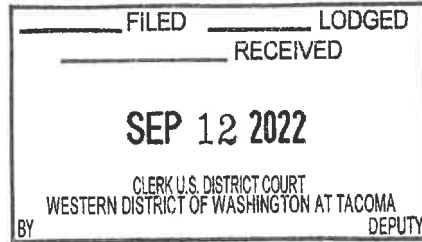


Judge Theresa L. Fricke



UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KALEB MICHAEL SCOTT,

Defendant.

NO. CR22-5256DGE

**PLEA AGREEMENT**

The United States, through United States Attorney Nicholas W. Brown and Assistant United States Attorney Hillary K. Stuart of the Western District of Washington and KALEB MICHAEL SCOTT and his attorney Rebecca Fish enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A), (B):

1. **Waiver of Indictment.** Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in an Information.

2. **The Charge.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters a plea of guilty to the following charge contained in the Information: Production of Child Pornography, as charged in Count 1, in violation of Title 18, United States Code, Sections 2251(a) and (e).

1 By entering a plea of guilty, Defendant hereby waives all objections to the form of  
 2 the charging document. Defendant further understands that before entering any guilty  
 3 plea, Defendant will be placed under oath. Any statement given by Defendant under oath  
 4 may be used by the United States in a prosecution for perjury or false statement.

5 **3. Elements of the Offense.** The elements of Production of Child  
 6 Pornography to which Defendant is pleading guilty are as follows:

7 *First*, the defendant used a minor to engage in sexually explicit conduct;

8 *Second*, the defendant did so for the purpose of producing a visual  
 9 depiction of such conduct; and

10 *Third*, the visual depiction was produced using materials that had been  
 11 shipped or transported in interstate in foreign commerce or transported using any means  
 12 or facility of interstate commerce or in and affecting interstate or foreign commerce.

13 **4. The Penalties.** Defendant understands that the statutory penalties  
 14 applicable to the offense of Production of Child Pornography, as charged in Count 1: A  
 15 maximum term of imprisonment of up to 30 years and a mandatory minimum term of  
 16 imprisonment of 15 years, a fine of up to \$250,000, a period of supervision following  
 17 release from prison of not less than 5 years up to life, a mandatory special assessment of  
 18 \$100, a \$5,000 penalty assessment unless the defendant is indigent, and up to a \$50,000  
 19 assessment because the defendant is pleading guilty to a child pornography production  
 20 offense as defined by Title 18, United States Code, Section 2259(c)(1). If a probationary  
 21 sentence is imposed, the probation period can be for up to five (5) years.

22 Defendant understands that supervised release is a period of time following  
 23 imprisonment during which Defendant will be subject to certain restrictive conditions and  
 24 requirements. Defendant further understands that, if supervised release is imposed and  
 25 Defendant violates one or more of the conditions or requirements, Defendant could be  
 26 returned to prison for all or part of the term of supervised release that was originally  
 27 imposed. This could result in Defendant serving a total term of imprisonment greater than  
 28 the statutory maximum stated above.

1 Defendant understands that as a part of any sentence, in addition to any term of  
 2 imprisonment and/or fine that is imposed, the Court will order Defendant to pay  
 3 mandatory restitution of not less than \$3,000 to any victim of the offense, as required by  
 4 law.

5 Defendant further understands that the consequences of pleading guilty may  
 6 include the forfeiture of certain property, either as a part of the sentence imposed by the  
 7 Court, or as a result of civil judicial or administrative process.

8 Defendant agrees that any monetary penalty the Court imposes, including the  
 9 special assessment, fine, costs, or restitution, is due and payable immediately and further  
 10 agrees to submit a completed Financial Disclosure Statement as requested by the United  
 11 States Attorney's Office.

12 **5. Immigration Consequences.** Defendant recognizes that pleading guilty  
 13 may have consequences with respect to Defendant's immigration status if Defendant is  
 14 not a citizen of the United States. Under federal law, a broad range of crimes are grounds  
 15 for removal, and some offenses make removal from the United States presumptively  
 16 mandatory. Removal and other immigration consequences are the subject of a separate  
 17 proceeding, and Defendant understands that no one, including Defendant's attorney and  
 18 the Court, can predict with certainty the effect of a guilty plea on immigration status.  
 19 Defendant nevertheless affirms that Defendant wants to plead guilty regardless of any  
 20 immigration consequences that Defendant's guilty plea(s) may entail, even if the  
 21 consequence is Defendant's mandatory removal from the United States.

22 **6. Rights Waived by Pleading Guilty.** Defendant understands that by  
 23 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 24 a. The right to plead not guilty and to persist in a plea of not guilty;
- 25 b. The right to a speedy and public trial before a jury of Defendant's
- 26 peers;

1 c. The right to the effective assistance of counsel at trial, including, if  
2 Defendant could not afford an attorney, the right to have the Court appoint one for  
3 Defendant;

4 d. The right to be presumed innocent until guilt has been established  
5 beyond a reasonable doubt at trial;

6 e. The right to confront and cross-examine witnesses against Defendant  
7 at trial;

8 f. The right to compel or subpoena witnesses to appear on Defendant's  
9 behalf at trial;

10 g. The right to testify or to remain silent at trial, at which trial such  
11 silence could not be used against Defendant; and

12 h. The right to appeal a finding of guilt or any pretrial rulings.

13 7. **United States Sentencing Guidelines.** Defendant understands and  
14 acknowledges that the Court must consider the sentencing range calculated under the  
15 United States Sentencing Guidelines and possible departures under the Sentencing  
16 Guidelines together with the other factors set forth in Title 18, United States Code,  
17 Section 3553(a), including: (1) the nature and circumstances of the offense(s); (2) the  
18 history and characteristics of Defendant; (3) the need for the sentence to reflect the  
19 seriousness of the offense(s), to promote respect for the law, and to provide just  
20 punishment for the offense(s); (4) the need for the sentence to afford adequate deterrence  
21 to criminal conduct; (5) the need for the sentence to protect the public from further  
22 crimes of Defendant; (6) the need to provide Defendant with educational and vocational  
23 training, medical care, or other correctional treatment in the most effective manner; (7)  
24 the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the  
25 need to avoid unwarranted sentence disparity among defendants involved in similar  
26 conduct who have similar records. Accordingly, Defendant understands and  
27 acknowledges that:  
28

1           a.       The Court will determine Defendant's Sentencing Guidelines range  
2 at the time of sentencing;

3           b.       After consideration of the Sentencing Guidelines and the factors in  
4 18 U.S.C. § 3553(a), the Court may impose any sentence authorized by law, up to the  
5 maximum term authorized by law;

6           c.       The Court is not bound by any recommendation regarding the  
7 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines  
8 range offered by the parties or the United States Probation Department, or by any  
9 stipulations or agreements between the parties in this Plea Agreement; and

10          d.       Defendant may not withdraw a guilty plea solely because of the  
11 sentence imposed by the Court.

12          8.       **Ultimate Sentence.** Defendant acknowledges that no one has promised or  
13 guaranteed what sentence the Court will impose.

14          9.       **Statement of Facts.** The parties agree on the following facts. Defendant  
15 admits Defendant is guilty of the charged offense(s):

16           a.       In 2021, KALEB MICHAEL SCOTT was living in Vancouver,  
17 Washington with relatives. SCOTT is a 23-year-old male. During this time, he had  
18 contact with and took care of an infant child, Minor Victim (MV).

19           b.       During an investigation into uploaded images of child pornography,  
20 a Snapchat end-user named "oblivionknight19," was identified by search warrants and  
21 through IP addresses as KALEB MICHAEL SCOTT. SCOTT exchanged messages and  
22 discussed his abuse of Minor Victim (MV), explaining acts he performed, over Snapchat.  
23 SCOTT also sent child sexual abuse material and child pornography images of MV over  
24 Snapchat.

25           c.       A description of two images of MV are as follows:

26           **Image 1-** This image is taken from the point of view of the abuser. It shows MV's  
27 face and SCOTT's exposed penis. SCOTT has MV grabbing SCOTT's exposed  
28 penis. This image is dated with the creation date of March 4, 2021.

1 **Image 2** – This is one of a series of images dated April 9, 2021 showing SCOTT  
 2 engaging in sexually explicit conduct with MV. Image 2 shows SCOTT inserting  
 3 his penis into the buttock of MV as MV is laying on his stomach and hunched  
 4 over. The child's anus appears red.

5 d. Agents discovered that SCOTT had moved to the Vancouver area in  
 6 2018 to live with relatives but moved to Utah in August 2021. When he left, SCOTT  
 7 gave his phone to his relatives in payment for money he owed for outstanding expenses,  
 8 and the relatives consented to a search of the phone. A digital forensic analysis of  
 9 SCOTT's Samsung Galaxy phone found 34 images of sexual abuse of an infant male  
 10 located in application caches and the android gallery. The files were created between  
 11 12/25/2020 and 07/26/2021, which would be near to the time the images were taken. Two  
 12 of the images were visually identical to those originally identified in the Snapchat  
 13 notification involving MV. MV's parents confirmed identity of MV through clothing and  
 14 items depicted in the images.

15 e. The analysis of SCOTT's phone also revealed relevant Google  
 16 searches for child pornography terms. The phone also contained photos of pay stubs from  
 17 SCOTT and other indicia of SCOTT's ownership and control over the phone. SCOTT  
 18 also used Google Photo Resource linked to his email to store visually similar images to  
 19 those described above.

20 The parties agree that the Court may consider additional facts contained in the  
 21 Presentence Report (subject to standard objections by the parties) and/or that may be  
 22 presented by the United States or Defendant at the time of sentencing, and that the factual  
 23 statement contained herein is not intended to limit the facts that the parties may present to  
 24 the Court at the time of sentencing.

25 **10. Sentencing Factors.** The parties agree that the following Sentencing  
 26 Guidelines provisions apply to this case:

27 a. A base offense level of 32, pursuant to USSG § 2G2.2(a)(2);  
 28



b. An upward adjustment of 12 based on the abuse involving an infant, distribution, a sexual act, supervisory control, and the use of a computer pursuant to USSG § 2G2.2(b);

c. A three-level downward adjustment if the defendant fully accepts responsibility pursuant to Paragraph 10 of this Plea Agreement.

The parties agree they are free to present arguments regarding the applicability of all other provisions of the United States Sentencing Guidelines. Defendant understands, however, that at the time of sentencing, the Court is free to reject these stipulated adjustments, and is further free to apply additional downward or upward adjustments in determining Defendant's Sentencing Guidelines range.

**11. Acceptance of Responsibility.** At sentencing, *if* the Court concludes Defendant qualifies for a downward adjustment for acceptance of responsibility pursuant to USSG § 3E1.1(a), the United States will make the motion necessary to permit the Court to decrease the total offense level by three levels pursuant to USSG §§ 3E1.1(a), because Defendant has assisted the United States by timely notifying the United States of Defendant's intention to plead guilty, thereby permitting the United States to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

**12. Agreed Recommendation Regarding Imprisonment.** Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), the parties jointly agree to recommend that the appropriate term of imprisonment to be imposed by the Court at the time of sentencing is a term of 240 months and the parties also recommend a lifetime term of supervised release. The Government agrees to recommend that the Court order this custodial term to be served concurrently with any sentence imposed in the Defendant's Washington state charges, Clark County case 21-1-02087-06. Defendant understands that this recommendation is not binding on the Court and the Court may reject the recommendation of the parties and may impose any term of imprisonment up to the statutory maximum penalty authorized by law. Defendant further understands that Defendant cannot withdraw a guilty plea simply because of the sentence imposed by the

1 Court. Except as otherwise provided in this Plea Agreement, the parties are free to  
 2 present arguments regarding any other aspect of sentencing.

3       **13. Restitution.** Pursuant to Title 18, United States Code, Section 1593,  
 4 Defendant shall make restitution to victim O.M. in an amount to be determined at  
 5 sentencing. Defendant agrees that the Court can order Defendant to pay restitution to the  
 6 victims of Defendant's crimes and, in exchange for the agreements by the United States  
 7 contained in this Plea Agreement, Defendant agrees that restitution in this case should not  
 8 be limited to the offense of conviction. Defendant is aware that the United States will  
 9 present evidence supporting an order of restitution for all losses caused by all of  
 10 Defendant's criminal conduct known to the United States at the time of Defendant's  
 11 guilty plea to include those losses resulting from crimes not charged or admitted by  
 12 Defendant in the Statement of Facts including sexual assault and rape of a child. In  
 13 exchange for the promises by the United States contained in this Plea Agreement,  
 14 Defendant agrees that Defendant will be responsible for any order by the District Court  
 15 requiring the payment of restitution for such losses.

16           a. The full amount of restitution shall be due and payable immediately  
 17 on entry of judgment and shall be paid as quickly as possible. If the Court finds that the  
 18 defendant is unable to make immediate restitution in full and sets a payment schedule as  
 19 contemplated in 18 U.S.C. § 3664(f), Defendant agrees that the Court's schedule  
 20 represents a minimum payment obligation and does not preclude the U.S. Attorney's  
 21 Office from pursuing any other means by which to satisfy the defendant's full and  
 22 immediately-enforceable financial obligation, including, but not limited to, by pursuing  
 23 assets that come to light only after the district court finds that the defendant is unable to  
 24 make immediate restitution.

25           b. Defendant agrees to disclose all assets in which Defendant has any  
 26 interest or over which Defendant exercises control, directly or indirectly, including those  
 27 held by a spouse, nominee, or third party. Defendant agrees to cooperate fully with the  
 28 United States' investigation identifying all property in which Defendant has an interest



1 and with the United States' lawful efforts to enforce prompt payment of the financial  
 2 obligations to be imposed in connection with this prosecution. Defendant's cooperation  
 3 obligations are: (1) before sentencing, and no more than 30 days after executing this Plea  
 4 Agreement, truthfully and completely executing a Financial Disclosure Statement  
 5 provided by the United States Attorney's Office and signed under penalty of perjury  
 6 regarding Defendant's and Defendant's spouse's financial circumstances and producing  
 7 supporting documentation, including tax returns, as requested; (2) providing updates  
 8 with any material changes in circumstances, as described in 18 U.S.C. § 3664(k), within  
 9 seven days of the event giving rise to the changed circumstances; (3) authorizing the  
 10 United States Attorney's Office to obtain Defendant's credit report before sentencing; (4)  
 11 providing waivers, consents or releases requested by the U.S. Attorney's Office to access  
 12 records to verify the financial information; (5) authorizing the U.S. Attorney's Office to  
 13 inspect and copy all financial documents and information held by the U.S. Probation  
 14 Office; (6) submitting to an interview regarding Defendant's Financial Statement and  
 15 supporting documents before sentencing (if requested by the United States Attorney's  
 16 Office), and fully and truthfully answering questions during such interview; and (7)  
 17 notifying the United States Attorney's Office before transferring any interest in property  
 18 owned directly or indirectly by Defendant, including any interest held or owned in any  
 19 other name, including all forms of business entities and trusts.

20 c. The parties acknowledge that voluntary payment of restitution prior  
 21 to the adjudication of guilt is a factor the Court considers in determining whether  
 22 Defendant qualifies for acceptance of responsibility pursuant to USSG § 3E1.1(a).

23 14. **Forfeiture.** The Defendant understands and agrees the forfeiture of  
 24 property is part of the sentence that must be imposed in this case.

25 The Defendant agrees to forfeit immediately, to the United States, his right, title,  
 26 and interest in any property he used or intended to use to commit or to promote his  
 27 commission of *Production of Child Pornography*, as charged in Count 1 of the  
 28

1 Information, and any proceeds of the offense. All such property is forfeitable pursuant to  
 2 Title 18, United States Code, Section 2253(a).

3 The Defendant agrees to fully assist the United States in the forfeiture of the  
 4 above-described property and to take whatever steps are necessary to pass clear title to  
 5 the United States, including but not limited to: surrendering title and executing any  
 6 documents necessary to effectuate such forfeiture; assisting in bringing any assets located  
 7 outside the United States within the jurisdiction of the United States; and taking whatever  
 8 steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed,  
 9 wasted, hidden, or otherwise made unavailable for forfeiture. The Defendant agrees not  
 10 to file a claim to any of the above-described property in any federal forfeiture proceeding,  
 11 administrative or judicial, which may be or has been initiated.

12 The United States reserves its right to proceed against any remaining property not  
 13 identified in this Plea Agreement, including any property in which the Defendant has any  
 14 interest or control, if it constitutes proceeds of, or was used to commit or to promote the  
 15 Defendant's commission of *Production of Child Pornography*.

16 **15. Abandonment of Contraband.** Defendant also agrees that, if any federal  
 17 law enforcement agency seized any illegal contraband that was in Defendant's direct or  
 18 indirect control, including files and images depicting minors engaged in sexually explicit  
 19 conduct, Defendant consents to the federal administrative disposition, official use, and/or  
 20 destruction of that contraband. Defendant also abandons any interest he may have in any  
 21 electronic devices including but not limited to: a Samsung Galaxy S9 cellular phone  
 22 (SM-G965U) and all non-contraband data files contained on these electronic devices, and  
 23 he consents to the federal administrative disposition of the devices and data files,  
 24 including their destruction.

25 **16. Registration as a Sex Offender.** The Defendant stipulates and agrees that  
 26 based on the Sex Offender Registration and Notification Act, Title 42, United States  
 27 Code, Section 16911 et seq., he is entering a plea of guilty to a sex offense and is a sex  
 28 offender as those terms are defined in the Act. The Defendant further agrees that pursuant

1 to the Act, he is required to register as a sex offender, and keep the registration current, in  
2 each jurisdiction where the Defendant resides, is an employee, and is a student. The  
3 Defendant further agrees that for initial registration purposes only, the Defendant is  
4 required also to register in the jurisdiction in which the Defendant is convicted if such  
5 jurisdiction is different from the jurisdiction of residence.

6       **17. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,  
7 the United States Attorney's Office for the Western District of Washington agrees not to  
8 prosecute Defendant for any additional offenses known to it as of the time of this Plea  
9 Agreement based upon evidence in its possession at this time, and that arise out of the  
10 conduct giving rise to this investigation. In this regard, Defendant recognizes the United  
11 States has agreed not to prosecute all of the criminal charges the evidence establishes  
12 were committed by Defendant solely because of the promises made by Defendant in this  
13 Plea Agreement. Defendant agrees, however, that for purposes of preparing the  
14 Presentence Report, the United States Attorney's Office will provide the United States  
15 Probation Office with evidence of all conduct committed by Defendant.

16       Defendant agrees that any charges to be dismissed before or at the time of  
17 sentencing were substantially justified in light of the evidence available to the United  
18 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant  
19 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119  
20 (1997).

21       **18. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if  
22 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea  
23 Agreement and Defendant may be prosecuted for all offenses for which the United States  
24 has evidence. Defendant agrees not to oppose any steps taken by the United States to  
25 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea  
26 Agreement. Defendant also agrees that, if Defendant is in breach of this Plea Agreement,  
27 Defendant has waived any objection to the re-institution of any charges that previously  
28 were dismissed or any additional charges that had not been prosecuted.

1 Defendant further understands that if, after the date of this Plea Agreement,  
 2 Defendant should engage in illegal conduct, or conduct that violates any conditions of  
 3 release or the conditions of confinement (examples of which include, but are not limited  
 4 to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while  
 5 pending sentencing, and false statements to law enforcement agents, the Pretrial Services  
 6 Officer, Probation Officer, or Court), the United States is free under this Plea Agreement  
 7 to file additional charges against Defendant or to seek a sentence that takes such conduct  
 8 into consideration by requesting the Court to apply additional adjustments or  
 9 enhancements in its Sentencing Guidelines calculations in order to increase the applicable  
 10 advisory Guidelines range, and/or by seeking an upward departure or variance from the  
 11 calculated advisory Guidelines range. Under these circumstances, the United States is  
 12 free to seek such adjustments, enhancements, departures, and/or variances even if  
 13 otherwise precluded by the terms of the Plea Agreement.

14 **19. Waiver of Appellate Rights and Rights to Collateral Attacks.**

15 Defendant acknowledges that, by entering the guilty plea(s) required by this Plea  
 16 Agreement, Defendant waives all rights to appeal from Defendant's conviction, and any  
 17 pretrial rulings of the Court, and any rulings of the Court made prior to entry of the  
 18 judgment of conviction. Defendant further agrees that, provided the Court imposes a  
 19 custodial sentence that is within or below the Sentencing Guidelines range (or the  
 20 statutory mandatory minimum, if greater than the Guidelines range) as determined by the  
 21 Court at the time of sentencing, Defendant waives to the full extent of the law:

22 a. Any right conferred by Title 18, United States Code, Section 3742,  
 23 to challenge, on direct appeal, the sentence imposed by the Court, including any fine,  
 24 restitution order, probation or supervised release conditions, or forfeiture order (if  
 25 applicable); and

26 b. Any right to bring a collateral attack against the conviction and  
 27 sentence, including any restitution order imposed, except as it may relate to the  
 28 effectiveness of legal representation.

1 This waiver does not preclude Defendant from bringing an appropriate motion  
2 pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or  
3 the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

4 If Defendant breaches this Plea Agreement at any time by appealing or collaterally  
5 attacking (except as to effectiveness of legal representation) the conviction or sentence in  
6 any way, the United States may prosecute Defendant for any counts, including those with  
7 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea  
8 Agreement.

9 20. **Voluntariness of Plea.** Defendant agrees that Defendant has entered into  
10 this Plea Agreement freely and voluntarily, and that no threats or promises were made to  
11 induce Defendant to enter a plea of guilty other than the promises contained in this Plea  
12 Agreement or set forth on the record at the change of plea hearing in this matter.

13 21. **Statute of Limitations.** In the event this Plea Agreement is not accepted by  
14 the Court for any reason, or Defendant breaches any of the terms of this Plea Agreement,  
15 the statute of limitations shall be deemed to have been tolled from the date of the Plea  
16 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea  
17 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of  
18 the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

19 //

20 //

21 //

22. **Completeness of Plea Agreement.** The United States and Defendant acknowledge that these terms constitute the entire Plea Agreement between the parties, except as may be set forth on the record at the change of plea hearing in this matter. This Plea Agreement binds only the United States Attorney's Office for the Western District of Washington. It does not bind any other United States Attorney's Office or any other office or agency of the United States, or any state or local prosecutor.

Dated this 12th day of September, 2022.

Kaleb Michael Scott  
KALEB MICHAEL SCOTT  
Defendant

REBECCA FISH  
Attorney for Defendant

*Will for*  
GRADY J. LEUPOLD  
Assistant United States Attorney

*File 29*  
HILLARY K. STUART  
Assistant United States Attorney